

FILED

OCT - 1 2004

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

LONNIE MAURICE FORD,
No. 05329-027
Federal Correctional Institution
Box 1500
El Reno, Oklahoma 73036,

Plaintiff,

v

BUREAU OF ALCOHOL, TOBACCO, FIREARMS and
EXPLOSIVES, Department of Justice,
Washington, D. C. 20226,

and

DRUG ENFORCEMENT ADMINISTRATION,
United States Department of Justice,
Washington, D. C. 20537,

and

UNITED STATES MARSHALS SERVICE,
United States Department of Justice,
Washington, D. C. 20530,

and

CRIMINAL DIVISION of the UNITED STATES
DEPARTMENT OF JUSTICE, 950 Pennsylvania
Washington, D. C. 20530,

and

INTERNAL REVENUE SERVICE,
Department of the Treasury
Washington, D. C. 20224,

and

FEDERAL BUREAU OF INVESTIGATION,
J. Edgar Hoover Building
Washington, D. C. 20535,

and

EXECUTIVE OFFICE FOR UNITED STATES
ATTORNEYS, 600 E. Street, NW,
Washington, D. C. 20530,

Defendants.

CASE NUMBER 1:04CV01685

JUDGE: Gladys Kessler

DECK TYPE: FOIA/Privacy Act

DATE STAMP: 10/01/2004

C O M P L A I N T

FREEDOM OF INFORMATION ACT SUIT

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

NOW COMES, Plaintiff, LONNIE M. FORD, Pro Se, and respectfully as and for his complaint against the above named defendants, hereby states, claims and alleges as follows:

Jurisdiction

This Court has jurisdiction to entertain this cause of action under the Freedom of Information Act (5 USC Section 552) in conjunction with the Privacy Act (5 USC Section 552a) (FOIA/PA).

Venue

Venue lies in the District of Columbia and is proper under the Freedom of Information Act and the Privacy Act, in all suits at law under those Acts.

Plaintiff

Plaintiff, LONNIE MAURICE FORD, is a federal prisoner who is presently housed at the Federal Correctional Institution, Box 1500, El Reno, Oklahoma 73036.

Defendants

Defendants, each and every one of them, are federal "agencies" subject to the Freedom of Information and Privacy Act laws.

Count 1

1. By letter to the defendant BUREAU OF ALCOHOL, TOBACCO and FIREARMS, and EXPLOSIVES dated November 4, 2003, plaintiff requested all information in any way connected to his name.
2. By letter dated December 15, 2003, the "ATF" granted plaintiff's request in part and denied it in part by the application of exemptions (b)(2), (b)(7)(C), and (b)(6) to withhold certain information from plaintiff.
3. By letter dated January 4, 2004, plaintiff administratively appealed the withholdings by the BUREAU OF ALCOHOL, TOBACCO, FIREARMS and EXPLOSIVES (hereinafter "ATF") as arbitrary and capricious use of the FOIA/PA exemptions, to the Office of Information & Privacy (hereinafter "OIP").
4. By letter dated January 29, 2004, the OIP acknowledged receipt of the appeal.
5. By letter from the OIP dated March 30, 2004, the administrative appeal was ruled upon and the ATF's action was AFFIRMED.
6. Plaintiff claims the ATF has not met their burden of showing that the material withheld by ATF actually fits within the parameters of the exemptions claimed.
7. Plaintiff claims the withholdings by ATF was arbitrary and capricious.
8. This action is proper to obtain judicial review of the ATF's action/inaction.

Count II

1. By letter to the DRUG ENFORCEMENT ADMINISTRATION (hereinafter "DEA") plaintiff requested a copy of all records in any way connection to his name on December 21, 2003.
2. The DEA acknowledged receipt of the request by letter dated January 8, 2004.
3. By release dated January 27, 2004, the DEA released 41 pages of highly expurgated material to plaintiff and withheld 24 pages in their entirety by application of exemptions (b)(2), (b)(7)(C), (b)(7)(F) and (j)(2) of the FOIA/PA.
4. Plaintiff appealed the withholdings as arbitrary and capricious to the OIP.
5. By letter dated March 19, 2004, the OIP acknowledged receipt of the appeal.
6. Five months have passed and plaintiff is yet to receive the decision by the OIP on his administrative appeal.
7. Plaintiff claims the DEA has arbitrarily and capriciously withheld information from him.
8. Plaintiff claims the DEA has grossly violated the FOIA time limits within which to decide an administrative appeal.
9. This action is proper to obtain judicial review of the DEA's action/inaction.

Count III

1. By letter dated November 4, 2003, plaintiff requested all information in any way connected to his name from the UNITED STATES MARSHALS SERVICE (Hereinafter the "MARSHALS").
2. By letter dated November 19, 2003, the MARSHALS acknowledged receipt of the request.
3. Plaintiff has received no further correspondence from the MARSHALS in connection to his request.
4. The MARSHALS are in gross derogation of the statutory time limits within which to process plaintiff's request under both the FOIA and the Privacy Act (PA).
5. This action is proper to obtain judicial review of the MARSHALS action/inaction.

Count IV

1. By letter dated November 4, 2003 to the CRIMINAL DIVISION OF THE UNITED STATES DEPARTMENT OF JUSTICE, plaintiff requested all information in any way connected to his name.
2. By letter dated January 29, 2004 the CRIMINAL DIVISION sent plaintiff was notified that his request was being closed out for lack of a request form and a current descriptive list of systems checked by plaintiff.
3. Plaintiff completed the requisite forms and sent them to CRIMINAL DIVISION.
4. By letter dated March 11, 2004, the CRIMINAL DIVISION acknowledged receipt of the fulfilled request forms.
5. By letter dated April 9, 2004 CRIMINAL DIVISION advised plaintiff no records could be found responsive to his request.
6. Plaintiff appealed the no records response to the OIP.
7. The OIP and the CRIMINAL DIVISION have never responded to the plaintiff's administrative appeal to the no records response of the CRIMINAL DIVISION.
8. The CRIMINAL DIVISION is in gross violation of the statutory time limits within which to respond to an administrative appeal under the FOIA/PA.
9. This action is proper to obtain judicial review of the action/inaction by the CRIMINAL DIVISION.

Count V

1. By letter to the INTERNAL REVENUE SERVICE dated December 22, 2003, plaintiff requested all information in any way connected to his name.
2. The INTERNAL REVENUE SERVICE (hereinafter "IRS") never responded to the plaintiff's request.
3. The IRS is in gross derogation of the statutory time limits within which to respond to an FOIA/PA request.
4. This action is proper to obtain judicial review of the IRS's action/inaction.

Count VI

1. By letter the the CHICAGO FIELD OFFICE of the FEDERAL BUREAU OF INVESTIGATION dated November 4, 2003, plaintiff requested all information in any way connected to his name.

2. By letter dated November 20, 2003, the FEDERAL BUREAU OF INVESTIGATION (Hereinafter "FBI") advised plaintiff they could find no records responsive to his request in the Chicago Field Office of the FBI.
3. By letter to the OIP dated December 19, 2003, the plaintiff appeal the no records response of the Chicago Field Office of the FBI.
4. By letter dated January 29, 2004, the OIP acknowledged receipt of the plaintiff's administrative appeal.
5. By letter dated March 9, 2004 the OIP AFFIRMED the no records response of the Chicago Field Office of the FBI and advised plaintiff to seek judicial review.
6. Plaintiff hereby requests judicial review of the FBI's action/inaction to the request concerning the Chicago Field Office of the FBI.

Count VII

1. By letter dated November 4, 2003 to the FBI Headquarters in Washington, D.C. plaintiff requested all information in any way connected to his name in the possession of the FBI in the field offices of Flint, Michigan, Chicago, Illinois, and Hammond, Indiana as well as the Central Office in Washington, D.C.
2. By letter dated November 18, 2003, the FBI acknowledged receipt of the request.
3. By letter dated November 19, 2003, the FBI in Washington, D.C. advised the plaintiff that no records were located at the FBI HEADQUARTERS in Washington, D.C.
4. By appeal to the OIP dated December 20, 2003, plaintiff appealed the no records response by the FBI and further appealed the FBI's failure to address the requests for records in the Flint, Michigan, Hammond, Indiana offices of the FBI.
5. The OIP acknowledged receipt of the appeal by letter dated January 29, 2004.
6. By letter dated March 9, 2004 the OIP AFFIRMED the FBI HEADQUARTER's action on the plaintiff's request, but, specifically noted it had not searched the field offices of the FBI as requested in Flint, Michigan and Hammond, Indiana.
7. Plaintiff claims the FBI search to be wholly inadequate and the action of the FBI to be arbitrary and capricious.
8. Plaintiff asks for judicial review of the FBI's action/inaction.

Count VIII

1. By letter dated November 4, 2003 plaintiff requested all information in any way connected to his name in the possession of the EXECUTIVE OFFICE FOR UNITED STATES ATTORNEYS (Hereinafter "EOUSA") in Hammond, Indiana, Chicago, Illinois and Flint, Michigan and Pekin, Illinois.
2. By letter dated January 7, 2004 the EOUSA acknowledged receipt of the request for records in Michigan.
3. By letter dated February 23, 2004 the EOUSA advised plaintiff it could not locate any records in the Flint or Detroit areas.
4. Plaintiff appealed the no records response to the OIP.
5. Defendant EOUSA never responded to the administrative appeal to the Michigan no records response of the EOUSA.
6. Defendant EOUSA is in violation of the statutory time limits within which to respond to an administrative appeal under the FOIA/PA concerning the Michigan records.
7. This action is proper to obtain judicial review of the action/inaction of the EOUSA regarding the Michigan no records response.

Count IX

1. By letter dated January 7, 2004 the EOUSA acknowledged receipt of plaintiff's request for information in the Indiana district of the EOUSA.
2. By letter dated March 26, 2004 plaintiff received a release of 49 pages of material from the EOUSA with 3 pages released highly expurgated and notification that 14 pages were being withheld in full under the auspices of exemptions (b)(3), (b)(7)(c), (b)(7)(F) and (j)(2) of the FOIA/PA.
3. Plaintiff appealed the arbitrary and capricious application of the exemptions by EOUSA to withhold information from him, to the OIP.
4. The EOUSA never responded to the appeal to the withholdings from the Indiana Office of EOUSA.
5. EOUSA is in violation of the statutory time limits within which to decide his administrative appeal under the FOIA/PA.
6. EOUSA is arbitrarily and capriciously withholding records used by the Indiana district to prosecute plaintiff.
7. EOUSA is in derogation of the FOIA statutory time limits.
8. This action is proper to obtain judicial review of the EOUSA action/inaction.

Count X

1. By letter dated July 14, 2004, the EOUSA advised plaintiff that 21 pages of material that was referred to the Drug Enforcement Task Force of the CRIMINAL DIVISION were being withheld in full under the cover of exemptions (b)(2), (b)(5), (b)(7)(E), (b)(7)(C), (j)(2).
2. Plaintiff appeal to the OIP on July 20, 2004 the arbitrary and capricious blanket denial of access to the 21 pages referred by the CRIMINAL DIVISION.
3. Plaintiff has never received a response from the EOUSA regarding that appeal.
4. The EOUSA is arbitrarily and capriciously blanket denying plaintiff access to the 21 pages of information.
5. This action is proper to obtain judicial review of the EOUSA action/inaction.

WHEREFORE, Plaintiff prays for the following relief:

1

That these proceedings be expedited according to longstanding FOIA/PA law;

2

That each and every one of the above-named federal agencies be found to have violated the Freedom of Information Act;

3

That this Court impose sanctions upon those individuals and/or employees of any such agency that has been found to have deliberately violated the Freedom of Information Act and/or otherwise has intentionally withheld information from the plaintiff in any one or more of the above counts;

4

That plaintiff be ordered immediate access to the requested information in each and every count;

5

That plaintiff be awarded his reasonable clerical/researchers/attorneys fees incurred in the prosecution of this cause of action as to each and every count;

6

That plaintiff be declared to have substantially prevailed in this suit as to each and every defendant and each and every named agency and as to each and every count;

7

That the search and/or copy fees be waived as to each and every count;

8

That plaintiff be allowed to proceed in this complaint in forma pauperis as an indigent;

9

That competent counsel be appointed to represent plaintiff in any further proceedings in this cause of action;

10

That this Court grant plaintiff any further relief that this Court deems just and proper.

Respectfully Submitted this 29th day of August, 2004.

By

Lonnie M. Ford

LONNIE MAURICE FORD, Pro Se

No. 05329-027

Federal Correctional Institution

Box 1500

El Reno, Oklahoma 73036